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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

CHIBOUT ET AL.

APPLICATION NO: 10/575814

FILED: June 7, 2007

FOR: DIFFERENTIALLY EXPRESSED GENES RELATED TO  
CORONARY ARTERY DISEASECommissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450RESPONSE TO RESTRICTION REQUIREMENT

In response to the restriction requirement of August 26, 2008, Applicants hereby elect sequence CD59 from Table 11 (p13987, SEQ ID NO:46).

This election is made with traverse. Diagnostic claims are more predictive when a number of indicators are used. By way of example, although the methods of claim 10 of the present invention can be practiced by using only one of the peptides selected from Table 11, said methods are more corroborative if *more than one* of the peptides selected from Table 11 are employed. The more changes observed between the first and second peptide expression values when testing a subject for coronary artery disease (CAD), the more useful as a diagnostic tool are the methods of the invention (in, e.g., claim 10). To force Applicants to choose only one of the peptides of Table 11, as the Examiner has done in the present restriction requirement, is to severely limit the diagnostic promise of the claims of the invention.

Furthermore, a search for the peptides of Table 11 would not be unduly burdensome on the Examiner. Unlike a search for protein or peptide *compositions of matter*, in which a search for more than one could be burdensome, the search for diagnostic methods employing the peptides of Table 11 begins with GenBank accession numbers that are provided by the Applicants, and extends only to the narrow field of coronary artery disease (CAD). And unlike a search for protein or peptide *compositions of matter*, in which a search for more than one could be burdensome, the fact that the biomarkers in Table 11 do not share conserved domains or structures does not negatively impact a search for diagnostic methods employing the peptides of Table 11.

Applicants file a one month petition for extension of time herewith, and believe that no additional fees are due with this filing. However, if it is deemed that additional fees are required, the Commissioner is authorized to charge Deposit Account No. 504409 in the name of Novartis for any fees due.

An early and favorable action on the merits is respectfully requested.

Respectfully submitted,

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